



U.S. Customs and
Border Protection

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PUBLIC VERSION

EAPA Case Number: 7401

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Re: Notice of Initiation of Investigation taken as to Blue Pipe Steel Center Company Limited concerning evasion of the antidumping duty order on Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand

Dear Counsel and Representatives of the above-referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”), for Blue Pipe Steel Center Company Limited (“Blue Pipe”). CBP is investigating whether Blue Pipe has evaded

the antidumping duty (“AD”) order A-549-502¹ on Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand. Because evidence reasonably suggests that Blue Pipe has entered merchandise into the United States through evasion, CBP is sending a formal notice of investigation.

Period of Investigation

Pursuant to 19 C.F.R. § 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.” *See* 19 C.F.R. § 165.1. CBP acknowledged receipt of the properly filed allegation against Blue Pipe on October 18, 2019.² The entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from October 18, 2018, through the pendency of this investigation. *See* 19 C.F.R. § 165.2.

Initiation

On November 8, 2019, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated an investigation under EAPA as the result of allegations submitted by Independence Tube Corporation, Southland Tube, Incorporated, and Wheatland Tube Company (collectively, “the allegers”), as to evasion of antidumping duties by Blue Pipe.³ The allegers claim that Blue Pipe evaded the AD Order on certain circular welded carbon steel pipes and tubes (“standard pipe”) from Thailand by misclassifying standard pipe as “line pipe.”⁴ The allegers state that available information reasonably suggests Blue Pipe evaded the AD Order with respect to Thai-origin standard pipe manufactured by Saha Thai.⁵ The basis for this allegation follows.

The allegation asserts that Blue Pipe posed as the importer of record for shipments of standard pipe from Thailand, which are subject to the scope of the AD Order and were misclassified as “line pipe.” Additionally it was suggested that Blue Pipe was affiliated with Saha Thai Steel Pipe (Public) Company Ltd. (“Saha Thai”), a manufacturer of the merchandise subject to this investigation. A review of trade data contends that Blue Pipe was used by Saha Thai to ship merchandise. Documentation was provided to support Saha Thai’s involvement in several U.S. Department of Commerce (“Commerce”) AD proceedings (*i.e.*, administrative reviews) of covered merchandise. Specifically after the 2016-2017 administrative review of standard pipe from Thailand at Commerce, bill of lading data indicated that Blue Pipe began to import Saha

¹ *See Circular Welded Carbon Steel Pipes and Tubes From Thailand*, 51 Fed. Reg. 8341 (*Dep’t Commerce Mar. 1 1, 1986*) (“AD Order”).

² *See* October 18, 2019 email entitled, “Receipt of EAPA 7401: Misclassifying Standard Pipe as Line Pipe.”

³ *See* Memorandum “Initiation of Investigation for EAPA Case Number 7401 – Blue Pipe” (“Initiation”).

⁴ *See* Letter from The allegers, “Circular Welded Carbon Steel Pipes and Tubes from Thailand: Request for an Investigation under the Enforce and Protect Act” (October 4, 2019) (“Allegation”).

⁵ *See* Allegation.

Thai's "line pipe." According to the allegers, the timing of Blue Pipe's imports suggests that Blue Pipe is misclassifying Saha Thai's standard pipe as line pipe to avoid antidumping duties.

The allegers also contend that Saha Thai is not a known producer of line pipe. By all accounts, they are a standard pipe producer. A review of Saha Thai's website revealed that none of the product descriptions for any of its pipes mention or implicate oil and gas distribution, which is critical for line pipe usage.

The allegers also noted that Saha Thai did not have documented American Petroleum Institute ("API") 5L certification, the standard used worldwide, to manufacture line pipe used in the oil and gas industries.

The rise of Blue Pipe imports of line pipe manufactured by Saha Thai after their involvement in Commerce proceedings, coupled with an inability to produce line pipe in accordance with API 5L certification guidelines, reasonably suggests that Blue Steel misclassified Saha Thai's standard pipe as "line pipe" when importing it into the United States.

TRLED will initiate an investigation if it determines that "{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion." *See* 19 C.F.R. §165.15(b). Evasion is defined as "the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise." *See* 19 C.F.R. §165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegation, TRLED found that the allegation reasonably suggested that the importer is evading AD order A-549-502 by importing standard pipe into the United States via Thailand and failing to properly classify that merchandise as subject to the AD Order. Specifically, the allegers noted a history of violations by Saha Thai and Blue Pipe of misclassifying standard pipe as line pipe imported into the United States, and cited evidence suggesting that Saha Thai does not have the proper certification needed to mark their pipe as line pipe. Therefore, TRLED concluded that the allegation reasonably suggests that covered merchandise has entered the customs territory of the United States by means of evasion, and that Blue Pipe may have been importing such merchandise. Consequently, TRLED initiated an investigation pursuant to 19 U.S.C. §1517(b)(1).⁶

⁶ *See* Initiation.

CF-28 Responses and Analysis

As part of the EAPA investigation process, CBP requested documentation from Blue Pipe in the form of a Customs Form 28 (“CF-28”) request for information for entries that are subject to this EAPA investigation.⁷ CBP requested sale, production, and factory documentation, including proof of [] certification, from Blue Pipe for several entries.⁸ To date, Blue Pipe has not responded to several attempts by CBP to secure this information.

Cargo Exams

CBP also identified two recent shipments from the importer for cargo exam review.⁹ The Blue Pipe entry documents from these shipments, specifically the mill test reports, referenced [] as the manufacturer.¹⁰ Further, Blue Pipe provided invoices and packing lists that referenced []. All of these documents identified [] as the country of origin for the line pipe.

Lab Report

CBP conducted an analysis of a sample of merchandise for a Blue Pipe entry for which the identified manufacturer was []. The results are pending; CBP is waiting to determine if the merchandise in question is line pipe and/or if it meets the requirements to be marked as [].

Research

CBP reviewed API’s website and confirmed that [] received the ability to use the API 5L monogram for marking shipment contents starting on [].¹¹ Nevertheless, products classified as line pipe manufactured by [] were entering the United States by Blue Pipe [] obtaining API 5L certification.

Notice of Investigation

According to 19 C.F.R. §165.15(d)(1), CBP will issue notification of its decision to initiate an investigation to all parties to the investigation no later than 95 calendar days after the decision has been made, and the actual date of initiation will be specified therein. Based on the information described herein, TRLED has initiated an investigation concerning the evasion of

⁷ See CF28 Request to Blue Pipe (December 12, 2019) (“CF28”).

⁸ See CF28.

⁹ See Cargo Exam Documents, “CEE-BM- Entry Number []7277 ((A), (B), (C)) Blue Pipe” and “CEE-BM- Entry Number []2107 ((A), (B), (C)) Blue Pipe (Cargo Exams).”

¹⁰ *Id.*

¹¹ See API Website Printout.

the AD order on Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand. The Allegation details, the lack of CF-28 responses, the pending lab report, and the fact that Blue Pipe entered products classified as line pipe manufactured by [] obtaining API 5L certification, all reasonably suggest that the merchandise imported by Blue Pipe into the United States was misclassified, and thus should have been subject to AD duties. Furthermore, if during this investigation CBP determines that substantial evidence of evasion exists, CBP will take appropriate measures to protect the revenue.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to Mr. DeFrancesco, counsel to the allegers, at RDeFrancesco@wileyrein.com, and Blue Pipe Steel Center Company, at bluepipe.steel@gmail.com. See 19 C.F.R. § 165.4, 165.23(c), and 165.26.

Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov. Please include “EAPA Case Number 7401” in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP’s website at:

<https://www.cbp.gov/trade/tradeenforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,

Kristina Horgan

Kristina Horgan, Acting Director
Enforcement Operations Division
Trade Remedy & Law Enforcement Directorate
CBP Office of Trade